

INSTRUCTIONS FOR APPLICATION FOR RIGHTS OF WAY ON STATE LANDS

NOTE: Easement requests are processed on a first come, first served basis. Department review of complete application packages may take a minimum of 120 days. Incomplete applications and those requiring further information may take longer.

WHEN ACCEPTING APPLICATIONS FOR EASEMENTS THE STATE LAND BOARD REQUIRES THE FOLLOWING:

1. An original and one copy of completed application.
2. An original and one copy (or two copies) of plat or survey.
3. A statement signed by the State Surface Lessee(s) which indicates arrangements have been made for compensation for leasehold damages, if any.¹
4. A statement signed by the applicant which gives the reason(s) why application is made on State land rather than an alternative.
5. A professional Cultural Survey.²

THE APPLICATION must be signed in a manner which reflects the name of applicant as you wish it to appear on the easement right of way deed. Immediately above the signature are spaces to indicate the acreage requested from each 40 acre subdivision or government lot.

IF THE LEGAL subdivision or metes and bounds description does not appear on the plat or survey it must appear at the top of reverse side of application. The surveyor need sign only the survey plat. It is not necessary for that person to sign in the survey space on application (if the plat is signed).

IF APPLICATION is being made for a road the survey is normally a metes and bounds centerline description. The survey **must show the quantity of land taken by the proposed easement from each forty-acre tract or government lot of State land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot (part of Section 77-2-102(2) MCA)**. If the requested right of way will cross more than one section of trust land, the survey may include all State tracts on the one survey. However, this is not applicable to the application. A separate legal description and application must be made for each section of land the application is made on. (Separate records are kept in our files on each section and a separate deed is issued for each section).

APPLICATIONS for a private access road must include a statement as to why access is needed across the state -- specifically, what other routes were considered and why no other alternate route is available or viable. A map of the surrounding area ownership should be included as a reference aid when discussing alternate routes. In addition, the full and exact legal description of the lands applicant is trying to secure access to must also be included.

UNDER TERMS of a State Surface Lease for agriculture, the Lessee has the basic right to graze or seed crops on approved acres. The State has retained the right to sell minerals, other non-conflicting uses, and to sell rights of way easements. Before the State sells an easement, the Surface Lessee **must** be compensated for any damages to improvements (i.e. road, summer fallow, forage, water developments, buildings, fences, etc.), crops, or leasehold interests (ref. ' 77-2-107 MCA).

CHARGES are based on market values of requested acres or for the type of use and are not paid until after Board approval and you have received a statement.

ALL AGENCIES OR PERSONS interested in putting a project on School Trust lands should contact the area office that handles the county the request is in. Contact with the area office should be made before an actual survey is done. After an on-site inspection, the area manager will consider whether the project is in the best interest of the trust. If there are no problems, a survey may be conducted and formal application may be made. **All easement applications are to be sent to the appropriate area office for review.** Enclosed is a listing of area offices and the counties they manage.

¹Notice of Lessee Settlement Statements must be signed by all parties named on the surface lease. Signatures by person(s) acting on behalf of the leaseholder(s) will only be accepted if the statement is accompanied by a certified copy of a Power of Attorney authorization. Additionally, statements signed by individual(s) acting as Personal Representative(s) of a lessee's estate will only be accepted when accompanied by documentation appointing the signatory as Personal Representative. It is in the applicant's best interest to ensure that, prior to submittal, application materials are accurate and complete in order to prevent delay in processing.

²To aid in processing an application, a cultural survey conducted by an approved professional is recommended, unless waived by the department's staff archaeologist. Applicants may elect to wait for department staff to conduct the survey, but should be aware this could delay processing of their application for their project.

A NON-REFUNDABLE \$50.00 APPLICATION FEE MUST ACCOMPANY THE APPLICATION WHEN SUBMITTED BEFORE ANY PROCESSING WILL BEGIN.